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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/659,323	09/11/2003	Hirohisa Ueda	P23928	3766

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RESTON, VA 20191

EXAMINER

KASZTEJNA, MATTHEW JOHN

ART UNIT	PAPER NUMBER
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3739

DATE MAILED: 08/07/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/659,323

Applicant(s)

UEDA ET AL.

Examiner

Matthew J. Kasztejna

Art Unit

3739

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 20 October 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,4,7-14,16 and 18-20 is/are rejected.
- 7) ☒ Claim(s) 2,3,5,15 and 17 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 11 September 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Notice of Amendment

In response to the amendment filed on October 20, 2005, amended claims 1, 5 and 7-8 and new claims 10-20 are acknowledged. The current rejections of the claims *stand*. The following new and reiterated grounds of rejection are set forth:

DETAILED ACTION

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

Claims 1,4, 6-7, 10-14, 16 and 18-20 are rejected under 35 U.S.C. 102(a) as being anticipated by U.S. Patent No. 6,293,282 to Lemelson.

In regards to claims 1, 10-12, 16 and 19-20, Lemelson discloses a magnetic anchor remote guidance system comprising: an engagement member 111 which engages with a body portion in a patient's body; a magnetic anchor 113 made of a magnetic material, connected to the engagement member; and a magnetic anchor guide device which is disposed out of the patient's body and which produces a magnetic field to power the magnetic anchor; wherein the body portion engaged by the engagement member is raised by supplying power to the magnetic anchor via the magnetic field produced by the magnetic anchor guide device (see Col. 22, Lines 15-45).

In regards to claim 4, Lemelson discloses a magnetic anchor remote guidance system, further comprising a connector for connecting the magnetic anchor with the engagement member (see Fig. 10).

In regards to claim 6, Lemelson discloses a magnetic anchor remote guidance system, wherein the magnetic anchor and the engagement member are interconnected in advance (see Fig. 10).

In regards to claim 7, Lemelson discloses a magnetic anchor remote guidance system, wherein the magnetic anchor guide device comprises: a magnetic guide member which produces the magnetic field to power the magnetic anchor made of a magnetic material; a two-dimensional moving mechanism which moves the magnetic guide member along a U-shaped frame which is arranged in a specific plane; and a unidirectional moving mechanism which relatively moves the U-shaped frame in a direction perpendicular to the plane (see Figs. 2 and 3).

In regards to claims 13-14, Lemelson discloses a magnetic anchor remote guidance system, wherein the connector is configured to be expelled from the guide sheath (see Fig. 10).

In regards to claim 18, Lemelson discloses a magnetic anchor remote guidance system, wherein the engagement member is configured for insertion in the patient's body via a channel of an endoscope (see Fig. 10).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

Art Unit: 3739

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 8-9 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S.

Patent No. 6,293,282 to Lemelson in view of Foreign Patent Application JP 2002-233575 to Kobayashi et al.

In regards to claims 8-9, Lemelson discloses a magnetic anchor remote guidance system but is silent with respect to the magnets guide member comprising an arm with an articulated joint or comprising a plurality of magnetic devices for producing independently adjustable magnetic fields. Kobayashi et al. teach of an all-purpose apparatus for medical use where in coils for producing magnetic fields can be arranged in numerous positions as seen in Figures 1-9. It would have been obvious to one skilled in the art at the time the invention was made to arrange the magnetic guide system of Lemelson in a variety of positions to provide greater flexibility during surgery to the operator as taught by Kobayashi et al.

Allowable Subject Matter

Claims 2-3, 5, 15 and 17 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Response to Arguments

Applicant's arguments filed October 20, 2005 have been fully considered but they are not persuasive.

Applicant states that Lemelson fails to disclose or teach an engagement member that is configured to raise a body portion by power supply to the magnetic anchor via a magnetic field. However, giving the claims the broadest most reasonable interpretation, the rotary abrasion member 111 is an engagement member. In operation, after the catheter has been introduced and positioned, an intermittent or rotating external magnetic field is applied from electromagnets outside the patient's body. This field engages magnets 113 and turns rotary abrasion member 111, causing the mechanical abrasion of surrounding tissue thus causing tissue to be raised away from a body portion (see Col. 22, Lines 15-45. As broadly as claimed, the limitations of claim 1 are met by the disclosure of Lemelson.

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

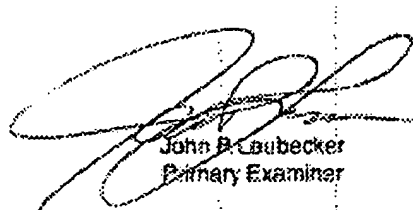
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Matthew J. Kasztejna whose telephone number is (571) 272-6086. The examiner can normally be reached on Mon-Fri, 8:30-6:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Linda C.M. Dvorak can be reached on (571) 272-4764. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

MJK *MJK*

7/31/06


John A. Laubecker
Primary Examiner